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16
17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 **SAN FRANCISCO DIVISION**

20
21 OWEN DIAZ,

22 Plaintiff,

23 v.

24 TESLA, INC. d/b/a TESLA MOTORS, INC.,

25 Defendant.

Case No. 3:17-cv-06748-WHO

**DECLARATION OF MARI HENDERSON
IN SUPPORT OF DEFENDANT
TESLA, INC.'S OPPOSITION TO
PLAINTIFF'S RENEWED MOTION FOR
MISTRIAL AND MOTION FOR NEW
TRIAL**

Hearing Date: July 19, 2023

Time: 2 p.m.

Place: Courtroom 2, 17th Floor

Judge: Hon. William H. Orrick

DECLARATION OF MARI HENDERSON

I, Mari Henderson, hereby declare:

1. I am a member of the State Bar of California and of this Court and am counsel for Defendant Tesla, Inc. (“Tesla”) in this matter. I have personal knowledge of the facts set forth in this declaration, and if called as a witness I could and would testify competently thereto.

2. I make this declaration in support of Tesla’s Opposition to Plaintiff’s Renewed Motion for Mistrial and Motion for New Trial.

3. On March 7, 2023, I participated in a telephone interview with Tesla employee Hilda Navarro regarding her interactions with Plaintiff Owen Diaz during the time when they worked together at the Fremont factory. The interview lasted about an hour and I was joined by a Tesla paralegal. The following is an accurate summary of relevant portions of the interview based on my contemporaneous notes. Ms. Navarro stated that in October 2015, she attempted to use the elevator Mr. Diaz operated when he was not present and she could not find him. When Mr. Diaz saw her using the elevator without him, he became upset, appeared angry, and yelled at her for not waiting for him to use the elevator. Mr. Diaz then accused Ms. Navarro of having another male employee in the recycling department cover for her whenever she made a mistake and implied the two of them were engaged in an intimate relationship. This accusation was not true. During the heated exchange with Mr. Diaz, Ms. Navarro started to cry. She understood Mr. Diaz’s accusation but felt unable to respond or explain herself because she was frightened. As a result, Mr. Diaz then made a disparaging comment about Ms. Navarro’s race/nationality and her limited English language abilities, claiming she was unable to understand because she was a “Mexican.” Ms. Navarro reported this statement by Mr. Diaz made her feel as though he was being racist towards her.

6. Periodically during the trial, I observed an image of Martin Luther King, Jr. being displayed on monitors in the courtroom apparently as the background image on the computer that Mr. Diaz's attorney team used to display the exhibits and other demonstratives that it showed to the jury.

/s/ Mari Henderson
Mari Henderson